

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 29784 of 2007(U)

PETITIONER:

A.NARAYANAN, AGED 53 YEARS,
SON OF P.KUNHAMBU,
VELLAMTHATTA HOUSE,
P.O. RAVANEESWARAM,
KASARAGOD DISTRICT.

BY ADV. SRI.K.KESAVANKUTTY

RESPONDENT:

THE HOSDURG HOUSING CO-OPERATIVE
SOCIETY LTD., HOSDURG,
P.O. KANHANGAD, KASARAGOD DISTRICT,
REPRESENTED BY ITS SECRETARY.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

KSS

M.N. KRISHNAN, J.

= = = = =

W.P.C. NO. 29784 OF 2007

= = = = =

Dated this the 8th day of October, 2007.

J U D G M E N T

This writ petition is filed seeking a writ of mandamus and to set aside the sale in E.P.142/05 and seeking the benefit of one time settlement etc. The decree holder is a Co-operative Society which has obtained a decree and it has put the decree into execution bid the property, sale confirmed, sale certificate issued and it is posted for delivery on 20.10.07. The sale is conducted under the provisions of the CPC and there are provisions which will enable the party to set aside the sale either under Order 21 Rule 89 of CPC or Order 21 Rule 90 of CPC.

2. The writ petitioner had slept over the matter for such a long time and it cannot be possible for this Court by invoking the jurisdiction under Article 227 of the Constitution of India to pass any order. But, at the same time the decree holder being a Bank who may not be very much interested in the property of anybody but only for the amount due to it, I

grant permission to the writ petitioner to approach the decree holder, Bank with a prayer to reconvey the property and the Bank may on consideration of the entire materials and relevant facts may decide whether to reconvey the property on receipt of the entire amount including the costs, expenses and the discount as contemplated under Order 21 Rule 89 of the CPC. In order to facilitate the petitioner to approach the Bank and work out the remedy I direct the Court below to defer the delivery for a period of six weeks.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-